

AMENDED IN SENATE JULY 24, 2003
AMENDED IN SENATE JULY 21, 2003
AMENDED IN SENATE JUNE 27, 2003
AMENDED IN ASSEMBLY JUNE 4, 2003
AMENDED IN ASSEMBLY MAY 8, 2003
AMENDED IN ASSEMBLY APRIL 9, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1263

Introduced by Assembly Member Benoit
(Coauthors: Assembly Members Bates, Cogdill, Cox, Dutton,
Haynes, Maze, Mullin, Nakanishi, Pacheco, Samuelian, and
Strickland)

February 21, 2003

An act to amend Section 602 of the Penal Code, relating to trespass.

LEGISLATIVE COUNSEL'S DIGEST

AB 1263, as amended, Benoit. Trespass.

Existing law makes it unlawful for persons to engage in certain acts of trespass. In particular, existing law makes it unlawful for a person to knowingly enter upon any airport operations area, as defined, if the area has been posted with notices restricting access, as provided. Existing law also makes it a crime to possess specified weapons, replica weapons, parts of weapons, and ammunition within a sterile area of an airport, as defined, to which access is controlled by screening of persons and property, except as provided.

This bill would make it a trespass to enter or reenter the sterile area of an airport after intentionally avoiding submission to the screening and inspection of one's person and accessible property in accordance with the procedures being applied to control access to that area. That trespass would be punishable as a misdemeanor with imprisonment of not more than 6 months in a county jail unless a violation is responsible for the evacuation of an airport terminal, is responsible in any part for delays or cancellations of scheduled flights, and the sterile area is posted with reasonable notice that the trespass may be prosecuted, in which case it would be punishable as a misdemeanor with not more than 1 year imprisonment in a county jail.

By creating a new crime, this bill would impose a state-mandated local program.

This bill would incorporate additional changes in Section 602 of the Penal Code proposed by AB 936, SB 993, or both, contingent upon the prior enactment of one or both of those bills.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 602 of the Penal Code is amended to
- 2 read:
- 3 602. Except as provided in paragraph (2) of subdivision (u)
- 4 and in Section 602.8, every person who willfully commits a
- 5 trespass by any of the following acts is guilty of a misdemeanor:
- 6 (a) Cutting down, destroying, or injuring any kind of wood or
- 7 timber standing or growing upon the lands of another.
- 8 (b) Carrying away any kind of wood or timber lying on those
- 9 lands.
- 10 (c) Maliciously injuring or severing from the freehold of
- 11 another anything attached to it, or its produce.



1 (d) Digging, taking, or carrying away from any lot situated
2 within the limits of any incorporated city, without the license of the
3 owner or legal occupant, any earth, soil, or stone.

4 (e) Digging, taking, or carrying away from land in any city or
5 town laid down on the map or plan of the city, or otherwise
6 recognized or established as a street, alley, avenue, or park,
7 without the license of the proper authorities, any earth, soil, or
8 stone.

9 (f) Maliciously tearing down, damaging, mutilating, or
10 destroying any sign, signboard, or notice placed upon, or affixed
11 to, any property belonging to the state, or to any city, county, city
12 and county, town or village, or upon any property of any person,
13 by the state or by an automobile association, which sign, signboard
14 or notice is intended to indicate or designate a road, or a highway,
15 or is intended to direct travelers from one point to another, or
16 relates to fires, fire control, or any other matter involving the
17 protection of the property, or putting up, affixing, fastening,
18 printing, or painting upon any property belonging to the state, or
19 to any city, county, town, or village, or dedicated to the public, or
20 upon any property of any person, without license from the owner,
21 any notice, advertisement, or designation of, or any name for any
22 commodity, whether for sale or otherwise, or any picture, sign, or
23 device intended to call attention to it.

24 (g) Entering upon any lands owned by any other person
25 whereon oysters or other shellfish are planted or growing; or
26 injuring, gathering, or carrying away any oysters or other shellfish
27 planted, growing, or on any of those lands, whether covered by
28 water or not, without the license of the owner or legal occupant;
29 or destroying or removing, or causing to be removed or destroyed,
30 any stakes, marks, fences, or signs intended to designate the
31 boundaries and limits of any of those lands.

32 (h) Willfully opening, tearing down, or otherwise destroying
33 any fence on the enclosed land of another, or opening any gate, bar,
34 or fence of another and willfully leaving it open without the
35 written permission of the owner, or maliciously tearing down,
36 mutilating, or destroying any sign, signboard, or other notice
37 forbidding shooting on private property.

38 (i) Building fires upon any lands owned by another where signs
39 forbidding trespass are displayed at intervals not greater than one
40 mile along the exterior boundaries and at all roads and trails

1 entering the lands, without first having obtained written
2 permission from the owner of the lands or the owner's agent, or the
3 person in lawful possession.

4 (j) Entering any lands, whether unenclosed or enclosed by
5 fence, for the purpose of injuring any property or property rights
6 or with the intention of interfering with, obstructing, or injuring
7 any lawful business or occupation carried on by the owner of the
8 land, the owner's agent or by the person in lawful possession.

9 (k) Entering any lands under cultivation or enclosed by fence,
10 belonging to, or occupied by, another, or entering upon
11 uncultivated or unenclosed lands where signs forbidding trespass
12 are displayed at intervals not less than three to the mile along all
13 exterior boundaries and at all roads and trails entering the lands
14 without the written permission of the owner of the land, the
15 owner's agent or of the person in lawful possession, and

16 (1) Refusing or failing to leave the lands immediately upon
17 being requested by the owner of the land, the owner's agent or by
18 the person in lawful possession to leave the lands, or

19 (2) Tearing down, mutilating, or destroying any sign,
20 signboard, or notice forbidding trespass or hunting on the lands,
21 or

22 (3) Removing, injuring, unlocking, or tampering with any lock
23 on any gate on or leading into the lands, or

24 (4) Discharging any firearm.

25 (l) Entering and occupying real property or structures of any
26 kind without the consent of the owner, the owner's agent, or the
27 person in lawful possession.

28 (m) Driving any vehicle, as defined in Section 670 of the
29 Vehicle Code, upon real property belonging to, or lawfully
30 occupied by, another and known not to be open to the general
31 public, without the consent of the owner, the owner's agent, or the
32 person in lawful possession. This subdivision shall not apply to
33 any person described in Section 22350 of the Business and
34 Professions Code who is making a lawful service of process,
35 provided that upon exiting the vehicle, the person proceeds
36 immediately to attempt the service of process, and leaves
37 immediately upon completing the service of process or upon the
38 request of the owner, the owner's agent, or the person in lawful
39 possession.

1 (n) Refusing or failing to leave land, real property, or structures
 2 belonging to or lawfully occupied by another and not open to the
 3 general public, upon being requested to leave by (1) a peace officer
 4 at the request of the owner, the owner's agent, or the person in
 5 lawful possession, and upon being informed by the peace officer
 6 that he or she is acting at the request of the owner, the owner's
 7 agent, or the person in lawful possession, or (2) the owner, the
 8 owner's agent, or the person in lawful possession. The owner, the
 9 owner's agent, or the person in lawful possession shall make a
 10 separate request to the peace officer on each occasion when the
 11 peace officer's assistance in dealing with a trespass is requested.
 12 However, a single request for a peace officer's assistance may be
 13 made to cover a limited period of time not to exceed 30 days and
 14 identified by specific dates, during which there is a fire hazard or
 15 the owner, owner's agent or person in lawful possession is absent
 16 from the premises or property. In addition, a single request for a
 17 peace officer's assistance may be made for a period not to exceed
 18 six months when the premises or property is closed to the public
 19 and posted as being closed. However, this subdivision shall not be
 20 applicable to persons engaged in lawful labor union activities
 21 which are permitted to be carried out on the property by the
 22 California Agricultural Labor Relations Act, Part 3.5
 23 (commencing with Section 1140) of Division 2 of the Labor Code,
 24 or by the National Labor Relations Act. For purposes of this
 25 section, land, real property, or structures owned or operated by any
 26 housing authority for tenants as defined under Section 34213.5 of
 27 the Health and Safety Code constitutes property not open to the
 28 general public; however, this subdivision shall not apply to
 29 persons on the premises who are engaging in activities protected
 30 by the California or United States Constitution, or to persons who
 31 are on the premises at the request of a resident or management and
 32 who are not loitering or otherwise suspected of violating or
 33 actually violating any law or ordinance.

34 (o) Entering upon any lands declared closed to entry as
 35 provided in Section 4256 of the Public Resources Code, if the
 36 closed areas shall have been posted with notices declaring the
 37 closure, at intervals not greater than one mile along the exterior
 38 boundaries or along roads and trails passing through the lands.

39 (p) Refusing or failing to leave a public building of a public
 40 agency during those hours of the day or night when the building



1 is regularly closed to the public upon being requested to do so by
2 a regularly employed guard, watchman, or custodian of the public
3 agency owning or maintaining the building or property, if the
4 surrounding circumstances would indicate to a reasonable person
5 that the person has no apparent lawful business to pursue.

6 (q) Knowingly skiing in an area or on a ski trail which is closed
7 to the public and which has signs posted indicating the closure.

8 (r) Refusing or failing to leave a hotel or motel, where he or she
9 has obtained accommodations and has refused to pay for those
10 accommodations, upon request of the proprietor or manager, and
11 the occupancy is exempt, pursuant to subdivision (b) of Section
12 1940 of the Civil Code, from Chapter 2 (commencing with Section
13 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For
14 purposes of this subdivision, occupancy at a hotel or motel for a
15 continuous period of 30 days or less shall, in the absence of a
16 written agreement to the contrary, or other written evidence of a
17 periodic tenancy of indefinite duration, be exempt from Chapter
18 2 (commencing with Section 1940) of Title 5 of Part 4 of Division
19 3 of the Civil Code.

20 (s) Entering upon private property, including contiguous land,
21 real property, or structures thereon belonging to the same owner,
22 whether or not generally open to the public, after having been
23 informed by a peace officer at the request of the owner, the owner's
24 agent, or the person in lawful possession, and upon being informed
25 by the peace officer that he or she is acting at the request of the
26 owner, the owner's agent, or the person in lawful possession, that
27 the property is not open to the particular person; or refusing or
28 failing to leave the property upon being asked to leave the property
29 in the manner provided in this subdivision.

30 This subdivision shall apply only to a person who has been
31 convicted of a violent felony, as specified in subdivision (c) of
32 Section 667.5, committed upon the particular private property. A
33 single notification or request to the person as set forth above shall
34 be valid and enforceable under this subdivision unless and until
35 rescinded by the owner, the owner's agent, or the person in lawful
36 possession of the property.

37 (t) (1) Knowingly entering, by an unauthorized person, upon
38 any airport operations area if the area has been posted with notices
39 restricting access to authorized personnel only and the postings
40 occur not greater than every 150 feet along the exterior boundary.

(2) Any person convicted of a violation of paragraph (1) shall be punished as follows:

(A) By a fine not exceeding one hundred dollars (\$100).

(B) By imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or both, if the person refuses to leave the airport operations area after being requested to leave by a peace officer or authorized personnel.

(C) By imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or both, for a second or subsequent offense.

(3) As used in this subdivision the following definitions shall control:

(A) “Airport operations area” means that part of the airport used by aircraft for landing, taking off, surface maneuvering, loading and unloading, refueling, parking, or maintenance, where aircraft support vehicles and facilities exist, and which is not for public use or public vehicular traffic.

(B) “Authorized personnel” means any person who has a valid airport identification card issued by the airport operator or has a valid airline identification card recognized by the airport operator, or any person not in possession of an airport or airline identification card who is being escorted for legitimate purposes by a person with an airport or airline identification card.

(C) “Airport” means any facility whose function is to support commercial aviation.

(u) (1) Except as permitted by federal law, intentionally avoiding submission to the screening and inspection of one’s person and accessible property in accordance with the procedures being applied to control access when entering or reentering a sterile area of an airport, as defined in Section 171.5.

(2) A violation of this subdivision that is responsible for the evacuation of an airport terminal and is responsible in any part for delays or cancellations of scheduled flights is punishable by imprisonment of not more than one year in a county jail if the sterile area is posted with a statement providing reasonable notice that prosecution may result from a trespass described in this subdivision.

1 (v) Refusing or failing to leave a battered women's shelter at
2 any time after being requested to leave by a managing authority of
3 the shelter.

4 (1) A person who is convicted of violating this subdivision
5 shall be punished by imprisonment in a county jail for not more
6 than one year.

7 (2) The court may order a defendant who is convicted of
8 violating this subdivision to make restitution to a battered woman
9 in an amount equal to the relocation expenses of the battered
10 woman and her children if those expenses are incurred as a result
11 of trespass by the defendant at a battered women's shelter.

12 SEC. 1.1. Section 602 of the Penal Code is amended to read:
13 602. Except as provided in paragraph (2) of subdivision (u),
14 subdivision (w), and Section 602.8, every person who willfully
15 commits a trespass by any of the following acts is guilty of a
16 misdemeanor:

17 (a) Cutting down, destroying, or injuring any kind of wood or
18 timber standing or growing upon the lands of another.

19 (b) Carrying away any kind of wood or timber lying on those
20 lands.

21 (c) Maliciously injuring or severing from the freehold of
22 another anything attached to it, or its produce.

23 (d) Digging, taking, or carrying away from any lot situated
24 within the limits of any incorporated city, without the license of the
25 owner or legal occupant, any earth, soil, or stone.

26 (e) Digging, taking, or carrying away from land in any city or
27 town laid down on the map or plan of the city, or otherwise
28 recognized or established as a street, alley, avenue, or park,
29 without the license of the proper authorities, any earth, soil, or
30 stone.

31 (f) Maliciously tearing down, damaging, mutilating, or
32 destroying any sign, signboard, or notice placed upon, or affixed
33 to, any property belonging to the state, or to any city, county, city
34 and county, town or village, or upon any property of any person,
35 by the state or by an automobile association, which sign, signboard
36 or notice is intended to indicate or designate a road, or a highway,
37 or is intended to direct travelers from one point to another, or
38 relates to fires, fire control, or any other matter involving the
39 protection of the property, or putting up, affixing, fastening,
40 printing, or painting upon any property belonging to the state, or

1 to any city, county, town, or village, or dedicated to the public, or
2 upon any property of any person, without license from the owner,
3 any notice, advertisement, or designation of, or any name for any
4 commodity, whether for sale or otherwise, or any picture, sign, or
5 device intended to call attention to it.

6 (g) Entering upon any lands owned by any other person
7 whereon oysters or other shellfish are planted or growing; or
8 injuring, gathering, or carrying away any oysters or other shellfish
9 planted, growing, or on any of those lands, whether covered by
10 water or not, without the license of the owner or legal occupant;
11 or destroying or removing, or causing to be removed or destroyed,
12 any stakes, marks, fences, or signs intended to designate the
13 boundaries and limits of any of those lands.

14 (h) Willfully opening, tearing down, or otherwise destroying
15 any fence on the enclosed land of another, or opening any gate, bar,
16 or fence of another and willfully leaving it open without the
17 written permission of the owner, or maliciously tearing down,
18 mutilating, or destroying any sign, signboard, or other notice
19 forbidding shooting on private property.

20 (i) Building fires upon any lands owned by another where signs
21 forbidding trespass are displayed at intervals not greater than one
22 mile along the exterior boundaries and at all roads and trails
23 entering the lands, without first having obtained written
24 permission from the owner of the lands or the owner's agent, or the
25 person in lawful possession.

26 (j) Entering any lands, whether unenclosed or enclosed by
27 fence, for the purpose of injuring any property or property rights
28 or with the intention of interfering with, obstructing, or injuring
29 any lawful business or occupation carried on by the owner of the
30 land, the owner's agent or by the person in lawful possession.

31 (k) Entering any lands under cultivation or enclosed by fence,
32 belonging to, or occupied by, another, or entering upon
33 uncultivated or unenclosed lands where signs forbidding trespass
34 are displayed at intervals not less than three to the mile along all
35 exterior boundaries and at all roads and trails entering the lands
36 without the written permission of the owner of the land, the
37 owner's agent or of the person in lawful possession, and

38 (1) Refusing or failing to leave the lands immediately upon
39 being requested by the owner of the land, the owner's agent or by
40 the person in lawful possession to leave the lands, or

1 (2) Tearing down, mutilating, or destroying any sign,
2 signboard, or notice forbidding trespass or hunting on the lands,
3 or

4 (3) Removing, injuring, unlocking, or tampering with any lock
5 on any gate on or leading into the lands, or

6 (4) Discharging any firearm.

7 (l) Entering and occupying real property or structures of any
8 kind without the consent of the owner, the owner's agent, or the
9 person in lawful possession.

10 (m) Driving any vehicle, as defined in Section 670 of the
11 Vehicle Code, upon real property belonging to, or lawfully
12 occupied by, another and known not to be open to the general
13 public, without the consent of the owner, the owner's agent, or the
14 person in lawful possession. This subdivision shall not apply to
15 any person described in Section 22350 of the Business and
16 Professions Code who is making a lawful service of process,
17 provided that upon exiting the vehicle, the person proceeds
18 immediately to attempt the service of process, and leaves
19 immediately upon completing the service of process or upon the
20 request of the owner, the owner's agent, or the person in lawful
21 possession.

22 (n) Refusing or failing to leave land, real property, or structures
23 belonging to or lawfully occupied by another and not open to the
24 general public, upon being requested to leave by (1) a peace officer
25 at the request of the owner, the owner's agent, or the person in
26 lawful possession, and upon being informed by the peace officer
27 that he or she is acting at the request of the owner, the owner's
28 agent, or the person in lawful possession, or (2) the owner, the
29 owner's agent, or the person in lawful possession. The owner, the
30 owner's agent, or the person in lawful possession shall make a
31 separate request to the peace officer on each occasion when the
32 peace officer's assistance in dealing with a trespass is requested.
33 However, a single request for a peace officer's assistance may be
34 made to cover a limited period of time not to exceed 30 days and
35 identified by specific dates, during which there is a fire hazard or
36 the owner, owner's agent or person in lawful possession is absent
37 from the premises or property. In addition, a single request for a
38 peace officer's assistance may be made for a period not to exceed
39 six months when the premises or property is closed to the public
40 and posted as being closed. However, this subdivision shall not be

1 applicable to persons engaged in lawful labor union activities
 2 which are permitted to be carried out on the property by the
 3 California Agricultural Labor Relations Act, Part 3.5
 4 (commencing with Section 1140) of Division 2 of the Labor Code,
 5 or by the National Labor Relations Act. For purposes of this
 6 section, land, real property, or structures owned or operated by any
 7 housing authority for tenants as defined under Section 34213.5 of
 8 the Health and Safety Code constitutes property not open to the
 9 general public; however, this subdivision shall not apply to
 10 persons on the premises who are engaging in activities protected
 11 by the California or United States Constitution, or to persons who
 12 are on the premises at the request of a resident or management and
 13 who are not loitering or otherwise suspected of violating or
 14 actually violating any law or ordinance.

15 (o) Entering upon any lands declared closed to entry as
 16 provided in Section 4256 of the Public Resources Code, if the
 17 closed areas shall have been posted with notices declaring the
 18 closure, at intervals not greater than one mile along the exterior
 19 boundaries or along roads and trails passing through the lands.

20 (p) Refusing or failing to leave a public building of a public
 21 agency during those hours of the day or night when the building
 22 is regularly closed to the public upon being requested to do so by
 23 a regularly employed guard, watchman, or custodian of the public
 24 agency owning or maintaining the building or property, if the
 25 surrounding circumstances would indicate to a reasonable person
 26 that the person has no apparent lawful business to pursue.

27 (q) Knowingly skiing in an area or on a ski trail which is closed
 28 to the public and which has signs posted indicating the closure.

29 (r) Refusing or failing to leave a hotel or motel, where he or she
 30 has obtained accommodations and has refused to pay for those
 31 accommodations, upon request of the proprietor or manager, and
 32 the occupancy is exempt, pursuant to subdivision (b) of Section
 33 1940 of the Civil Code, from Chapter 2 (commencing with Section
 34 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For
 35 purposes of this subdivision, occupancy at a hotel or motel for a
 36 continuous period of 30 days or less shall, in the absence of a
 37 written agreement to the contrary, or other written evidence of a
 38 periodic tenancy of indefinite duration, be exempt from Chapter
 39 2 (commencing with Section 1940) of Title 5 of Part 4 of Division
 40 3 of the Civil Code.



1 (s) Entering upon private property, including contiguous land,
2 real property, or structures thereon belonging to the same owner,
3 whether or not generally open to the public, after having been
4 informed by a peace officer at the request of the owner, the owner's
5 agent, or the person in lawful possession, and upon being informed
6 by the peace officer that he or she is acting at the request of the
7 owner, the owner's agent, or the person in lawful possession, that
8 the property is not open to the particular person; or refusing or
9 failing to leave the property upon being asked to leave the property
10 in the manner provided in this subdivision.

11 This subdivision shall apply only to a person who has been
12 convicted of a violent felony, as specified in subdivision (c) of
13 Section 667.5, committed upon the particular private property. A
14 single notification or request to the person as set forth above shall
15 be valid and enforceable under this subdivision unless and until
16 rescinded by the owner, the owner's agent, or the person in lawful
17 possession of the property.

18 (t) (1) Knowingly entering, by an unauthorized person, upon
19 any airport operations area if the area has been posted with notices
20 restricting access to authorized personnel only and the postings
21 occur not greater than every 150 feet along the exterior boundary.

22 (2) Any person convicted of a violation of paragraph (1) shall
23 be punished as follows:

24 (A) By a fine not exceeding one hundred dollars (\$100).

25 (B) By imprisonment in the county jail not exceeding six
26 months, or by a fine not exceeding one thousand dollars (\$1,000),
27 or both, if the person refuses to leave the airport operations area
28 after being requested to leave by a peace officer or authorized
29 personnel.

30 (C) By imprisonment in the county jail not exceeding six
31 months, or by a fine not exceeding one thousand dollars (\$1,000),
32 or both, for a second or subsequent offense.

33 (3) As used in this subdivision the following definitions shall
34 control:

35 (A) "Airport operations area" means that part of the airport
36 used by aircraft for landing, taking off, surface maneuvering,
37 loading and unloading, refueling, parking, or maintenance, where
38 aircraft support vehicles and facilities exist, and which is not for
39 public use or public vehicular traffic.



1 (B) “Authorized personnel” means any person who has a valid
2 airport identification card issued by the airport operator or has a
3 valid airline identification card recognized by the airport operator,
4 or any person not in possession of an airport or airline
5 identification card who is being escorted for legitimate purposes
6 by a person with an airport or airline identification card.

7 (C) “Airport” means any facility whose function is to support
8 commercial aviation.

9 (u) (1) Except as permitted by federal law, intentionally
10 avoiding submission to the screening and inspection of one’s
11 person and accessible property in accordance with the procedures
12 being applied to control access when entering or reentering a
13 sterile area of an airport, as defined in Section 171.5.

14 (2) A violation of this subdivision that is responsible for the
15 evacuation of an airport terminal and is responsible in any part for
16 delays or cancellations of scheduled flights is punishable by
17 imprisonment of not more than one year in a county jail if the
18 sterile area is posted with a statement providing reasonable notice
19 that prosecution may result from a trespass described in this
20 subdivision.

21 (v) Refusing or failing to leave a battered women’s shelter at
22 any time after being requested to leave by a managing authority of
23 the shelter.

24 (1) A person who is convicted of violating this subdivision
25 shall be punished by imprisonment in a county jail for not more
26 than one year.

27 (2) The court may order a defendant who is convicted of
28 violating this subdivision to make restitution to a battered woman
29 in an amount equal to the relocation expenses of the battered
30 woman and her children if those expenses are incurred as a result
31 of trespass by the defendant at a battered women’s shelter.

32 (w) (1) Knowingly entering or remaining in a neonatal unit,
33 maternity ward, or birthing center located in a hospital or clinic
34 without lawful business to pursue therein, if the area has been
35 posted so as to give reasonable notice restricting access to those
36 with lawful business to pursue therein and the surrounding
37 circumstances would indicate to a reasonable person that he or she
38 has no lawful business to pursue therein. Reasonable notice is that
39 which would give actual notice to a reasonable person, and is
40 posted, at a minimum, at each entrance into the area.

(2) Any person convicted of a violation of paragraph (1) shall be punished as follows:

(A) As an infraction, by a fine not exceeding one hundred dollars (\$100).

(B) By imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or both, if the person refuses to leave the posted area after being requested to leave by a peace officer or other authorized person.

(C) By imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or both, for a second or subsequent offense.

(D) If probation is granted or the execution or imposition of sentencing is suspended for any person convicted under this subdivision, it shall be a condition of probation that the person participate in counseling, as designated by the court, unless the court finds good cause not to impose this requirement. The court shall require the person to pay for this counseling, if ordered, unless good cause not to pay is shown.

SEC. 1.2. Section 602 of the Penal Code is amended to read:

602. Except as provided in paragraph (2) of subdivision (v) and in Section 602.8, every person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another.

(b) Carrying away any kind of wood or timber lying on those lands.

(c) Maliciously injuring or severing from the freehold of another anything attached to it, or its produce.

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant, any earth, soil, or stone.

(e) Digging, taking, or carrying away from land in any city or town laid down on the map or plan of the city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil, or stone.

(f) Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard, or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town or village, or upon any property of any person,

by the state or by an automobile association, which sign, signboard or notice is intended to indicate or designate a road, or a highway, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention to it.

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or on any of those lands, whether covered by water or not, without the license of the owner or legal occupant; or damaging, destroying, or removing, or causing to be removed, damaged, or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any of those lands.

(h) (1) Entering upon lands or buildings owned by any other person without the license of the owner or legal occupant, where signs forbidding trespass are displayed, and whereon cattle, goats, pigs, sheep, fowl, or any other animal is being raised, bred, fed, or held for the purpose of food for human consumption; or injuring, gathering, or carrying away any animal being housed on any of those lands, without the license of the owner or legal occupant; or damaging, destroying, or removing, or causing to be removed, damaged, or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any of those lands.

(2) *In order for there to be a violation of this subdivision, the trespass signs under paragraph (1) must be displayed at intervals not less than three per mile along all exterior boundaries and at all roads and trails entering the land.*

(3) This subdivision shall not be construed to preclude prosecution or punishment under any other provision of law, including, but not limited to, grand theft or any provision that provides for a greater penalty or longer term of imprisonment.

1 (i) Willfully opening, tearing down, or otherwise destroying
2 any fence on the enclosed land of another, or opening any gate, bar,
3 or fence of another and willfully leaving it open without the
4 written permission of the owner, or maliciously tearing down,
5 mutilating, or destroying any sign, signboard, or other notice
6 forbidding shooting on private property.

7 (j) Building fires upon any lands owned by another where signs
8 forbidding trespass are displayed at intervals not greater than one
9 mile along the exterior boundaries and at all roads and trails
10 entering the lands, without first having obtained written
11 permission from the owner of the lands or the owner's agent, or the
12 person in lawful possession.

13 (k) Entering any lands, whether unenclosed or enclosed by
14 fence, for the purpose of injuring any property or property rights
15 or with the intention of interfering with, obstructing, or injuring
16 any lawful business or occupation carried on by the owner of the
17 land, the owner's agent or by the person in lawful possession.

18 (l) Entering any lands under cultivation or enclosed by fence,
19 belonging to, or occupied by, another, or entering upon
20 uncultivated or unenclosed lands where signs forbidding trespass
21 are displayed at intervals not less than three to the mile along all
22 exterior boundaries and at all roads and trails entering the lands
23 without the written permission of the owner of the land, the
24 owner's agent or of the person in lawful possession, and

25 (1) Refusing or failing to leave the lands immediately upon
26 being requested by the owner of the land, the owner's agent or by
27 the person in lawful possession to leave the lands, or

28 (2) Tearing down, mutilating, or destroying any sign,
29 signboard, or notice forbidding trespass or hunting on the lands,
30 or

31 (3) Removing, injuring, unlocking, or tampering with any lock
32 on any gate on or leading into the lands, or

33 (4) Discharging any firearm.

34 (m) Entering and occupying real property or structures of any
35 kind without the consent of the owner, the owner's agent, or the
36 person in lawful possession.

37 (n) Driving any vehicle, as defined in Section 670 of the
38 Vehicle Code, upon real property belonging to, or lawfully
39 occupied by, another and known not to be open to the general
40 public, without the consent of the owner, the owner's agent, or the

person in lawful possession. This subdivision shall not apply to any person described in Section 22350 of the Business and Professions Code who is making a lawful service of process, provided that upon exiting the vehicle, the person proceeds immediately to attempt the service of process, and leaves immediately upon completing the service of process or upon the request of the owner, the owner's agent, or the person in lawful possession.

(o) Refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by (1) a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner's agent, or the person in lawful possession, or (2) the owner, the owner's agent, or the person in lawful possession. The owner, the owner's agent, or the person in lawful possession shall make a separate request to the peace officer on each occasion when the peace officer's assistance in dealing with a trespass is requested. However, a single request for a peace officer's assistance may be made to cover a limited period of time not to exceed 30 days and identified by specific dates, during which there is a fire hazard or the owner, owner's agent or person in lawful possession is absent from the premises or property. In addition, a single request for a peace officer's assistance may be made for a period not to exceed six months when the premises or property is closed to the public and posted as being closed. However, this subdivision shall not be applicable to persons engaged in lawful labor union activities which are permitted to be carried out on the property by the California Agricultural Labor Relations Act, Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code, or by the National Labor Relations Act. For purposes of this section, land, real property, or structures owned or operated by any housing authority for tenants as defined under Section 34213.5 of the Health and Safety Code constitutes property not open to the general public; however, this subdivision shall not apply to persons on the premises who are engaging in activities protected by the California or United States Constitution, or to persons who are on the premises at the request of a resident or management and



1 who are not loitering or otherwise suspected of violating or
2 actually violating any law or ordinance.

3 (p) Entering upon any lands declared closed to entry as
4 provided in Section 4256 of the Public Resources Code, if the
5 closed areas shall have been posted with notices declaring the
6 closure, at intervals not greater than one mile along the exterior
7 boundaries or along roads and trails passing through the lands.

8 (q) Refusing or failing to leave a public building of a public
9 agency during those hours of the day or night when the building
10 is regularly closed to the public upon being requested to do so by
11 a regularly employed guard, watchman, or custodian of the public
12 agency owning or maintaining the building or property, if the
13 surrounding circumstances would indicate to a reasonable person
14 that the person has no apparent lawful business to pursue.

15 (r) Knowingly skiing in an area or on a ski trail which is closed
16 to the public and which has signs posted indicating the closure.

17 (s) Refusing or failing to leave a hotel or motel, where he or she
18 has obtained accommodations and has refused to pay for those
19 accommodations, upon request of the proprietor or manager, and
20 the occupancy is exempt, pursuant to subdivision (b) of Section
21 1940 of the Civil Code, from Chapter 2 (commencing with Section
22 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For
23 purposes of this subdivision, occupancy at a hotel or motel for a
24 continuous period of 30 days or less shall, in the absence of a
25 written agreement to the contrary, or other written evidence of a
26 periodic tenancy of indefinite duration, be exempt from Chapter
27 2 (commencing with Section 1940) of Title 5 of Part 4 of Division
28 3 of the Civil Code.

29 (t) Entering upon private property, including contiguous land,
30 real property, or structures thereon belonging to the same owner,
31 whether or not generally open to the public, after having been
32 informed by a peace officer at the request of the owner, the owner's
33 agent, or the person in lawful possession, and upon being informed
34 by the peace officer that he or she is acting at the request of the
35 owner, the owner's agent, or the person in lawful possession, that
36 the property is not open to the particular person; or refusing or
37 failing to leave the property upon being asked to leave the property
38 in the manner provided in this subdivision.

39 This subdivision shall apply only to a person who has been
40 convicted of a violent felony, as specified in subdivision (c) of

1 Section 667.5, committed upon the particular private property. A
2 single notification or request to the person as set forth above shall
3 be valid and enforceable under this subdivision unless and until
4 rescinded by the owner, the owner's agent, or the person in lawful
5 possession of the property.

6 (u) (1) Knowingly entering, by an unauthorized person, upon
7 any airport operations area if the area has been posted with notices
8 restricting access to authorized personnel only and the postings
9 occur not greater than every 150 feet along the exterior boundary.

10 (2) Any person convicted of a violation of paragraph (1) shall
11 be punished as follows:

12 (A) By a fine not exceeding one hundred dollars (\$100).

13 (B) By imprisonment in the county jail not exceeding six
14 months, or by a fine not exceeding one thousand dollars (\$1,000),
15 or both, if the person refuses to leave the airport operations area
16 after being requested to leave by a peace officer or authorized
17 personnel.

18 (C) By imprisonment in the county jail not exceeding six
19 months, or by a fine not exceeding one thousand dollars (\$1,000),
20 or both, for a second or subsequent offense.

21 (3) As used in this subdivision the following definitions shall
22 control:

23 (A) "Airport operations area" means that part of the airport
24 used by aircraft for landing, taking off, surface maneuvering,
25 loading and unloading, refueling, parking, or maintenance, where
26 aircraft support vehicles and facilities exist, and which is not for
27 public use or public vehicular traffic.

28 (B) "Authorized personnel" means any person who has a valid
29 airport identification card issued by the airport operator or has a
30 valid airline identification card recognized by the airport operator,
31 or any person not in possession of an airport or airline
32 identification card who is being escorted for legitimate purposes
33 by a person with an airport or airline identification card.

34 (C) "Airport" means any facility whose function is to support
35 commercial aviation.

36 (v) (1) Except as permitted by federal law, intentionally
37 avoiding submission to the screening and inspection of one's
38 person and accessible property in accordance with the procedures
39 being applied to control access when entering or reentering a
40 sterile area of an airport, as defined in Section 171.5.

(2) A violation of this subdivision that is responsible for the evacuation of an airport terminal and is responsible in any part for delays or cancellations of scheduled flights is punishable by imprisonment of not more than one year in a county jail if the sterile area is posted with a statement providing reasonable notice that prosecution may result from a trespass described in this subdivision.

(w) Refusing or failing to leave a battered women's shelter at any time after being requested to leave by a managing authority of the shelter.

(1) A person who is convicted of violating this subdivision shall be punished by imprisonment in a county jail for not more than one year.

(2) The court may order a defendant who is convicted of violating this subdivision to make restitution to a battered woman in an amount equal to the relocation expenses of the battered woman and her children if those expenses are incurred as a result of trespass by the defendant at a battered women's shelter.

SEC. 1.3. Section 602 of the Penal Code is amended to read:

602. Except as provided in paragraph (2) of subdivision (v), subdivision (x), and Section 602.8, every person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another.

(b) Carrying away any kind of wood or timber lying on those lands.

(c) Maliciously injuring or severing from the freehold of another anything attached to it, or its produce.

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant, any earth, soil, or stone.

(e) Digging, taking, or carrying away from land in any city or town laid down on the map or plan of the city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil, or stone.

(f) Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard, or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city

1 and county, town or village, or upon any property of any person,
 2 by the state or by an automobile association, which sign, signboard
 3 or notice is intended to indicate or designate a road, or a highway,
 4 or is intended to direct travelers from one point to another, or
 5 relates to fires, fire control, or any other matter involving the
 6 protection of the property, or putting up, affixing, fastening,
 7 printing, or painting upon any property belonging to the state, or
 8 to any city, county, town, or village, or dedicated to the public, or
 9 upon any property of any person, without license from the owner,
 10 any notice, advertisement, or designation of, or any name for any
 11 commodity, whether for sale or otherwise, or any picture, sign, or
 12 device intended to call attention to it.

13 (g) Entering upon any lands owned by any other person
 14 whereon oysters or other shellfish are planted or growing; or
 15 injuring, gathering, or carrying away any oysters or other shellfish
 16 planted, growing, or on any of those lands, whether covered by
 17 water or not, without the license of the owner or legal occupant;
 18 or damaging, destroying, or removing, or causing to be removed,
 19 damaged, or destroyed, any stakes, marks, fences, or signs
 20 intended to designate the boundaries and limits of any of those
 21 lands.

22 (h) (1) Entering upon lands or buildings owned by any other
 23 person without the license of the owner or legal occupant, where
 24 signs forbidding trespass are displayed, and whereon cattle, goats,
 25 pigs, sheep, fowl, or any other animal is being raised, bred, fed, or
 26 held for the purpose of food for human consumption; or injuring,
 27 gathering, or carrying away any animal being housed on any of
 28 those lands, without the license of the owner or legal occupant; or
 29 damaging, destroying, or removing, or causing to be removed,
 30 damaged, or destroyed, any stakes, marks, fences, or signs
 31 intended to designate the boundaries and limits of any of those
 32 lands.

33 (2) *In order for there to be a violation of this subdivision, the*
 34 *trespass signs under paragraph (1) must be displayed at intervals*
 35 *not less than three per mile along all exterior boundaries and at*
 36 *all roads and trails entering the land.*

37 (3) This subdivision shall not be construed to preclude
 38 prosecution or punishment under any other provision of law,
 39 including, but not limited to, grand theft or any provision that
 40 provides for a greater penalty or longer term of imprisonment.

1 (i) Willfully opening, tearing down, or otherwise destroying
2 any fence on the enclosed land of another, or opening any gate, bar,
3 or fence of another and willfully leaving it open without the
4 written permission of the owner, or maliciously tearing down,
5 mutilating, or destroying any sign, signboard, or other notice
6 forbidding shooting on private property.

7 (j) Building fires upon any lands owned by another where signs
8 forbidding trespass are displayed at intervals not greater than one
9 mile along the exterior boundaries and at all roads and trails
10 entering the lands, without first having obtained written
11 permission from the owner of the lands or the owner's agent, or the
12 person in lawful possession.

13 (k) Entering any lands, whether unenclosed or enclosed by
14 fence, for the purpose of injuring any property or property rights
15 or with the intention of interfering with, obstructing, or injuring
16 any lawful business or occupation carried on by the owner of the
17 land, the owner's agent or by the person in lawful possession.

18 (l) Entering any lands under cultivation or enclosed by fence,
19 belonging to, or occupied by, another, or entering upon
20 uncultivated or unenclosed lands where signs forbidding trespass
21 are displayed at intervals not less than three to the mile along all
22 exterior boundaries and at all roads and trails entering the lands
23 without the written permission of the owner of the land, the
24 owner's agent or of the person in lawful possession, and

25 (1) Refusing or failing to leave the lands immediately upon
26 being requested by the owner of the land, the owner's agent or by
27 the person in lawful possession to leave the lands, or

28 (2) Tearing down, mutilating, or destroying any sign,
29 signboard, or notice forbidding trespass or hunting on the lands,
30 or

31 (3) Removing, injuring, unlocking, or tampering with any lock
32 on any gate on or leading into the lands, or

33 (4) Discharging any firearm.

34 (m) Entering and occupying real property or structures of any
35 kind without the consent of the owner, the owner's agent, or the
36 person in lawful possession.

37 (n) Driving any vehicle, as defined in Section 670 of the
38 Vehicle Code, upon real property belonging to, or lawfully
39 occupied by, another and known not to be open to the general
40 public, without the consent of the owner, the owner's agent, or the

person in lawful possession. This subdivision shall not apply to any person described in Section 22350 of the Business and Professions Code who is making a lawful service of process, provided that upon exiting the vehicle, the person proceeds immediately to attempt the service of process, and leaves immediately upon completing the service of process or upon the request of the owner, the owner's agent, or the person in lawful possession.

(o) Refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by (1) a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner's agent, or the person in lawful possession, or (2) the owner, the owner's agent, or the person in lawful possession. The owner, the owner's agent, or the person in lawful possession shall make a separate request to the peace officer on each occasion when the peace officer's assistance in dealing with a trespass is requested. However, a single request for a peace officer's assistance may be made to cover a limited period of time not to exceed 30 days and identified by specific dates, during which there is a fire hazard or the owner, owner's agent or person in lawful possession is absent from the premises or property. In addition, a single request for a peace officer's assistance may be made for a period not to exceed six months when the premises or property is closed to the public and posted as being closed. However, this subdivision shall not be applicable to persons engaged in lawful labor union activities which are permitted to be carried out on the property by the California Agricultural Labor Relations Act, Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code, or by the National Labor Relations Act. For purposes of this section, land, real property, or structures owned or operated by any housing authority for tenants as defined under Section 34213.5 of the Health and Safety Code constitutes property not open to the general public; however, this subdivision shall not apply to persons on the premises who are engaging in activities protected by the California or United States Constitution, or to persons who are on the premises at the request of a resident or management and



1 who are not loitering or otherwise suspected of violating or
2 actually violating any law or ordinance.

3 (p) Entering upon any lands declared closed to entry as
4 provided in Section 4256 of the Public Resources Code, if the
5 closed areas shall have been posted with notices declaring the
6 closure, at intervals not greater than one mile along the exterior
7 boundaries or along roads and trails passing through the lands.

8 (q) Refusing or failing to leave a public building of a public
9 agency during those hours of the day or night when the building
10 is regularly closed to the public upon being requested to do so by
11 a regularly employed guard, watchman, or custodian of the public
12 agency owning or maintaining the building or property, if the
13 surrounding circumstances would indicate to a reasonable person
14 that the person has no apparent lawful business to pursue.

15 (r) Knowingly skiing in an area or on a ski trail which is closed
16 to the public and which has signs posted indicating the closure.

17 (s) Refusing or failing to leave a hotel or motel, where he or she
18 has obtained accommodations and has refused to pay for those
19 accommodations, upon request of the proprietor or manager, and
20 the occupancy is exempt, pursuant to subdivision (b) of Section
21 1940 of the Civil Code, from Chapter 2 (commencing with Section
22 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For
23 purposes of this subdivision, occupancy at a hotel or motel for a
24 continuous period of 30 days or less shall, in the absence of a
25 written agreement to the contrary, or other written evidence of a
26 periodic tenancy of indefinite duration, be exempt from Chapter
27 2 (commencing with Section 1940) of Title 5 of Part 4 of Division
28 3 of the Civil Code.

29 (t) Entering upon private property, including contiguous land,
30 real property, or structures thereon belonging to the same owner,
31 whether or not generally open to the public, after having been
32 informed by a peace officer at the request of the owner, the owner's
33 agent, or the person in lawful possession, and upon being informed
34 by the peace officer that he or she is acting at the request of the
35 owner, the owner's agent, or the person in lawful possession, that
36 the property is not open to the particular person; or refusing or
37 failing to leave the property upon being asked to leave the property
38 in the manner provided in this subdivision.

39 This subdivision shall apply only to a person who has been
40 convicted of a violent felony, as specified in subdivision (c) of

1 Section 667.5, committed upon the particular private property. A
2 single notification or request to the person as set forth above shall
3 be valid and enforceable under this subdivision unless and until
4 rescinded by the owner, the owner's agent, or the person in lawful
5 possession of the property.

6 (u) (1) Knowingly entering, by an unauthorized person, upon
7 any airport operations area if the area has been posted with notices
8 restricting access to authorized personnel only and the postings
9 occur not greater than every 150 feet along the exterior boundary.

10 (2) Any person convicted of a violation of paragraph (1) shall
11 be punished as follows:

12 (A) By a fine not exceeding one hundred dollars (\$100).

13 (B) By imprisonment in the county jail not exceeding six
14 months, or by a fine not exceeding one thousand dollars (\$1,000),
15 or both, if the person refuses to leave the airport operations area
16 after being requested to leave by a peace officer or authorized
17 personnel.

18 (C) By imprisonment in the county jail not exceeding six
19 months, or by a fine not exceeding one thousand dollars (\$1,000),
20 or both, for a second or subsequent offense.

21 (3) As used in this subdivision the following definitions shall
22 control:

23 (A) "Airport operations area" means that part of the airport
24 used by aircraft for landing, taking off, surface maneuvering,
25 loading and unloading, refueling, parking, or maintenance, where
26 aircraft support vehicles and facilities exist, and which is not for
27 public use or public vehicular traffic.

28 (B) "Authorized personnel" means any person who has a valid
29 airport identification card issued by the airport operator or has a
30 valid airline identification card recognized by the airport operator,
31 or any person not in possession of an airport or airline
32 identification card who is being escorted for legitimate purposes
33 by a person with an airport or airline identification card.

34 (C) "Airport" means any facility whose function is to support
35 commercial aviation.

36 (v) (1) Except as permitted by federal law, intentionally
37 avoiding submission to the screening and inspection of one's
38 person and accessible property in accordance with the procedures
39 being applied to control access when entering or reentering a
40 sterile area of an airport, as defined in Section 171.5.

(2) A violation of this subdivision that is responsible for the evacuation of an airport terminal and is responsible in any part for delays or cancellations of scheduled flights is punishable by imprisonment of not more than one year in a county jail if the sterile area is posted with a statement providing reasonable notice that prosecution may result from a trespass described in this subdivision.

(w) Refusing or failing to leave a battered women's shelter at any time after being requested to leave by a managing authority of the shelter.

(1) A person who is convicted of violating this subdivision shall be punished by imprisonment in a county jail for not more than one year.

(2) The court may order a defendant who is convicted of violating this subdivision to make restitution to a battered woman in an amount equal to the relocation expenses of the battered woman and her children if those expenses are incurred as a result of trespass by the defendant at a battered women's shelter.

(x) (1) Knowingly entering or remaining in a neonatal unit, maternity ward, or birthing center located in a hospital or clinic without lawful business to pursue therein, if the area has been posted so as to give reasonable notice restricting access to those with lawful business to pursue therein and the surrounding circumstances would indicate to a reasonable person that he or she has no lawful business to pursue therein. Reasonable notice is that which would give actual notice to a reasonable person, and is posted, at a minimum, at each entrance into the area.

(2) Any person convicted of a violation of paragraph (1) shall be punished as follows:

(A) As an infraction, by a fine not exceeding one hundred dollars (\$100).

(B) By imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or both, if the person refuses to leave the posted area after being requested to leave by a peace officer or other authorized person.

(C) By imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or both, for a second or subsequent offense.

(D) If probation is granted or the execution or imposition of sentencing is suspended for any person convicted under this

subdivision, it shall be a condition of probation that the person participate in counseling, as designated by the court, unless the court finds good cause not to impose this requirement. The court shall require the person to pay for this counseling, if ordered, unless good cause not to pay is shown.

SEC. 2. (a) Section 1.1 of this bill incorporates amendments to Section 602 of the Penal Code proposed by both this bill and AB 936. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2004, (2) each bill amends Section 602 of the Penal Code, and (3) SB 993 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 936, in which case Sections 1, 1.2, and 1.3 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 602 of the Penal Code proposed by both this bill and SB 993. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2004, (2) each bill amends Section 602 of the Penal Code, (3) AB 936 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 993 in which case Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 602 of the Penal Code proposed by this bill, AB 936, and SB 993. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2004, (2) all three bills amend Section 602 of the Penal Code, and (3) this bill is enacted after AB 936, and SB 993, in which case Sections 1, 1.1, and 1.2 of this bill shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.